

REMARKS

Claims 1-56 and claims 67-76 are canceled. Claims 93-99 and 121 have been cancelled. Claim 57 has been amended. Thus, claims 57-66 and 77-92 and 100-120 are pending in the application.

The amendment have been made to facilitate prosecution of the application. The amendment does not include new matter and support for the amendment may be found in the specification as filed, such as but not limited to paragraphs 10 32, 33, 35, 37-40, 45-46, 50, 51, and 52-57.

During an Examiner Interview on January 29th, 2008, the patentability of the claims as presented herein over the cited references were discussed. The alleged statutory double patenting rejection was changed to an alleged obvious-type double patenting rejection, which was agreed to be addressed by submission of terminal disclaimer(s). Applicants have filed a terminal disclaimer over 10/995,583 and 10/749,695 to overcome any alleged obvious-type double patenting rejection.

NON-OBVIOUSNESS UNDER 35 U.S.C. §103(A)

The Office Action rejected Claims 1-92 and 100-120 under 35 U.S.C. 103(a) as allegedly unpatentable over Vierheilig U.S. 6,028,023 ('023 reference) in view of Poirier (U.S. Patent 5,951,851).

Independent claims 57, 77, and 100 and the dependent claims which depend from the respective independent claims are not obviousness because the references '023 alone or in view of Poirier, individually or combined, do not disclose method of using a mixed metal oxide having an X-ray diffraction pattern displaying at least a reflection at a two theta peak position at about 43 degrees and about 62 degrees in general and not in an FCC unit as discussed in December 11, 2007 response. Nor do '023 alone or in view of Poirier disclose using a mixed metal oxide in an FCC unit to reduce gasoline sulfur, etc. and Poirier **does not even disclose the mixed metal oxide.**

“Precursor” to a hydrotalcite like compound, which applicants also refer as **mixed metal oxide**, is not and cannot be the same composition as a HTL (i.e. **mixed metal hydroxide**) or calcined HTL based on multiple differing characteristics from an HTL or calcined HTL, such as X-ray diffraction pattern, degree of gasoline sulfur reduction, product yield, and yield shift, Attrition Index and ABD. Each characteristic independently shows that the mixed metal oxide is not and cannot be the same composition as an HTL or calcined HTL.

Thus, reducing gasoline sulfur emissions from a FCC unit or cracking unit with a precursor i.e. **mixed metal oxide** compound is not and cannot be inherent or obvious because HTL (i.e. **mixed metal hydroxide**) and calcined HTL are different from a mixed metal oxide and ‘023 reference does not disclose using a mixed metal oxide for such uses and hence the mixed metal oxide is not and cannot be in the FCC unit to necessarily, inherently or obviously reduce gasoline sulfur. In other words, reducing the concentration of gasoline sulfur from an FCC unit or cracking unit with a mixed metal oxide is not and cannot be inherent or obvious when the mixed metal oxide is not in the FCC unit or cracking unit and when the references do not suggest using the mixed metal oxide or as in Poirier, does not even disclose the mixed metal oxide. Thus, a new method for reducing gasoline sulfur with a mixed metal oxide is not inherent or obvious over ‘023 alone or in view of Poirier and is patentable because new method or use of a compound is patentable.

Consequently, Applicant respectfully submits that independent claims 57, 77, and 100 are not obvious. As current independent claims are allowable, all the dependent claims which depend from the respective independent claims are also allowable.

Applicants respectfully request that the Examiner consider the foregoing remarks, and allow the pending claims to issue. Applicants respectfully request a telephone interview to help expedite the successful prosecution of the claims; applicants’ undersigned attorney would be grateful for the opportunity to discuss any outstanding issues.

Respectfully submitted,

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